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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,486	02/16/2000	Timothy Robert Bratton	6037-003	5826

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FENWICK & WEST LLP  
SILICON VALLEY CENTER  
801 CALIFORNIA STREET  
MOUNTAIN VIEW, CA 94041

EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/505,486

Applicant(s)

BRATTON, TIMOTHY ROBERT

Examiner

Firmin Backer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

This is in response to an amendment file on April 16<sup>th</sup>, 2004. In the amendment, claims 1, 22, 22, 30, 36 and 44 have been amended, no claim has been canceled, and no claim has been added. Claims 1-49 remain pending in the letter.

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-49 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Reitmeier et al (U.S. PG Pub No 2002/0003881).

4. As per claim 1, Eller et al teach a method of encoding or encrypting data, comprising: providing an assembly of information-bearing sounds (ISA) removing one or more selected segments of the assembly, to produce a specified data file providing an encoding/encryption key

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and encoding or encrypting the specified data file and communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

5. As per claim 2, Eller et al teach a method further comprising providing a data supplement that indicates at least one of: location of at least one of the removed segments within the ISA; size of at least one of the removed segments within the ISA number of segments removed; separation distance between two consecutive removed segments within the ISA; and a selected portion of the encoding/encryption key; and communicating the data supplement in the second selected communication channel (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

6. As per claim 3, Eller et al teach a method further comprising providing the encoding/encryption key with at least one key parameter that uses information from at least one of the removed segment (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

7. As per claim 4, Eller et al teach a method further comprising selecting the first and second communication channels to be the same channel (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

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8. As per claim 5, Eller et al teach a method further comprising providing the second channel as a secure communication channel (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

9. As per claim 6, Eller et al teach a method further comprising concatenating the removed segments and the data supplement as a concatenated data file (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

10. As per claim 7, Eller et al teach a method further comprising encrypting the specified data file using cipher block chaining of at least one block of the concatenated data file and at least one encrypted block from the specified data file (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

11. As per claim 8, Eller et al teach a method further comprising providing the at least one encoding/encryption parameter for the encoding/encryption key by providing a block of the concatenated data file as an initial block for the at least one encrypted block of the data (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

12. As per claim 9, 10, Eller et al teach a method further comprising removing at least first and second segments from the data file, where the first segment and the second segment have equal length or different lengths (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

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13. As per claim 11, Eller et al teach a method further comprising combining the removed segments with the specified data file to form a combined data file and reproducing the combined data file as an assembly of sounds (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

14. As per claim 12, Eller et al teach a method of decoding or decrypting data, comprising: providing an encoded or encrypted first data file providing a second data file and a data supplement that indicates at least one of: an assigned location of at least one designated segment of the second data file within a non-coded and non-encrypted version of the first data file size of at least one designated segment of the second data file within the non-coded and non-encrypted first data file; number of selected segments designated and using the data supplement to decode or decrypt the encoded or encrypted first data file and to position at least a first sequence and a second sequence, drawn from the second data file, within the first data file and separation distance of at least two consecutive designated segments of the second data file within the non-coded and non-encrypted first data file; and a selected portion of an encoding/encryption key used to encode or encrypt the first data file (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

15. As per claim 13-20, They disclosed the same inventive concept as claims 2-11. Therefore, they are rejected under the same rationale.

16. As per claim 21, Eller et al teach a method of communicating data, the method comprising providing an assembly of information-bearing sounds as a digital file of data

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removing one or more selected segments from the data file to produce a specified data file having at least a first block and a second block, providing an encoding/encryption key having at least a first key portion and a second key portion providing a data supplement that indicates at least one of: location of at least one of the removed segments within the data file, size of at least one of the removed segments within the data file; number of segments removed separation distance between two consecutive removed segments within the data file; and at least a portion of the encoding/encryption key; encoding or encrypting the first block and the second block of the specified data file, using the first portion and the second portion, respectively, of the encoding/encryption key communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel (*see paragraphs 0005- 0008, 0016, 0024, 0025, 0029, 0036*).

17. As per claims 22-49, they disclosed the same inventive concept as claims 1-21.

Therefore, they are rejected under the same rationale.

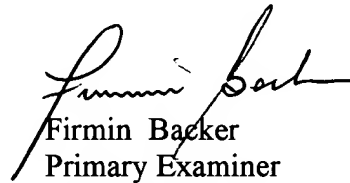
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Firmin Backer  
Primary Examiner  
Art Unit 3621

September 28, 2004